

claim 68; and claim 93, dependent from claim 92 also are allowable based on their dependence on claims which are objected to by the Examiner and stated to be allowable if placed to be independent form.

With respect to the rejection of claims 1-11, 13-21, 25-34, 36-45, 49-55, 57-65, 69-78, 80-89 and 93-96 under 35 U.S.C. § 103 over Ray '740 in view of Kuntz, independent claims 1, 26, and 70, as now amended, are directed to an implant having either a body that is frusto-conical or a thread having an outer locus that is frusto-conical. Independent claim 50, as now amended, is directed to a substantially cylindrical threaded implant having a truncated side.

Contrary to the Examiner's assertion, Kuntz does not teach an implant having a body that is frusto-conical or a thread having an outer locus that is frusto-conical. Kuntz also does not teach a cylindrical threaded implant having a truncated side. Figure 15 of Kuntz is a cross-sectional view of a rectangular prosthesis having an alternative means for holding the prosthesis rather than the flange 15 of Figure 1. (Col. 13, lines 34-43). The rectangular prosthesis of Kuntz has a tapered leading end to facilitate insertion. The Kuntz prosthesis is not frusto-conical. A frusto-conical configuration would be contrary to the teaching in Kuntz against "wedging" the vertebrae with its prosthesis as the "the prosthesis would be sitting as a wedge which would tend to cause it to dislocate anteriorly as it would tend to be 'squirted out' anteriorly." (Col. 9, lines 10-20).

Ray '740' teaches a threaded cage having a cylindrical configuration. There is no teaching, disclosure, or suggestion in Ray '740 for an implant having body or thread that is frusto conical. Ray '740 also does not teach, disclose, or suggest a threaded cylindrical implant having a truncated side as recited in claim 50 as now amended. The combination of the Ray '740 implant with the Kuntz implant as indicated by the Examiner, results in a threaded cylindrical implant having reduced threads at its insertion end only. Such an implant does not have a frusto-conical body or a thread with an outer locus having a frusto-conical configuration.

It is submitted that the rejection of claims 1-11, 13-21, 25-34, 36-45, 49-55, 57-65, 69-78, 80-89 and 93-96 under 35 U.S.C. § 103 over Ray '740 in view of Kuntz has been overcome.

With respect to the rejection of claims 13, 35, 56 and 79 under 35 U.S.C. § 103 over Ray '740 in view of Kuntz and further in view of McGuire, as discussed above, the combination of Ray '740 and Kuntz does not result in the claimed invention. McGuire teaches a bone screw having a thread with a reduced diameter portion. There is no teaching, disclosure, or suggestion in McGuire for an implant having a thread with an outer locus having a frusto-conical configuration.

It is submitted that the rejection of claims 13, 35, 56 and 79 under 35 U.S.C. § 103 over Ray '740 in view of Kuntz, and further in view of McGuire has been overcome.

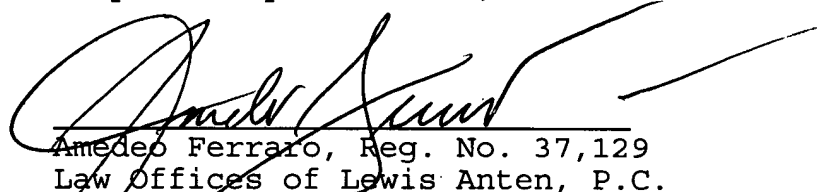
For the foregoing reasons, it is submitted that the

claims are now in condition for allowance. A Notice of Allowance is respectfully requested. Should there be any remaining or further questions, the Examiner is requested to please contact the undersigned directly.

If there are any other fees due in connection with the filing of this response, please charge our Deposit Account No. 01-2138. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for in the papers accompanying this response, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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